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DIVISIONAL FOREST OFFICE SOUTHERN CIRCLE. WORKING PLANS PARTY II

LOANS AND ADVANCES.

PART I.—Loans under the Land Improvement and Agriculturists' Loans Acts.

1. There can be no doubt of the necessity of encouraging by every means the taking up of advances in drought-stricken districts for the construction of new and repair of old wells. Great judgment should be exercised in refusing applications for such advances from failure to produce adequate security and it should be remembered that in most instances the repayment of loans cannot be better secured than by the mortgage of the land to be irrigated from a well and the well itself. (G. R., R. D., No. 5877, dated 14th October 1876.)

2. Special care should be taken to prevent takávi advances from being used as a means of subsistence or otherwise diverted from the object for which they were granted. (G. I., F. & C., No. 91, dated 23rd January 1877; *vide* G. R., R. D., No. 659, dated 1st February 1877.)

3. Advances under the Land Improvement Loans Act may be made in all villages, including the Dumála and Sharákati Dumála villages, under the usual rules as to security for repayment. Advances on other accounts should be made in other than Khálsa villages only with the sanction of the Commissioner and on occasions of great necessity. (G. R., R. D., No. 2254, dated 9th April 1877.)

4. The security of a sávkar should not be demanded for an advance of takávi, as he would probably ordinarily charge the rayat the same interest for standing security for him as if he had himself advanced the money. But to secure Government against loss, discrimination should be used in making advances. The patel and taláti can give a very accurate opinion whether the applicant is likely to make a good use of the advance. Assistant Collectors and Mámlatdárs should usually make personal enquiries on the spot as to the character of the applicants, and should take care to give the advance, when it has been decided to give it, without delay and in time to allow the land to be prepared for the seed.

Although the security of a sávkár should not be taken when there are several applicants in the same village, they should each become security for the other (Sankal Jámin), and when the crops are ripe, the patel and taláti should take the precautions provided in Sections 140—144 of the Revenue Code for recovering the amount due to Government.

Although takávi may be properly given to reclaim Bhils and wild tribes from predatory habits or to induce them to abandon dalhi cultivation, great discrimination should be used in its grant. It is not desirable that a class of pauper cultivators should be fostered and created by takávi advances. One of the great obstacles to agricultural improve-

ment is the difficulty of procuring labour. It is far better that the poorer classes should take their proper position in the labour market than be encouraged to undertake the responsibilities of cultivators on borrowed capital.

(G. R., R. D., No. 756, dated 5th February 1881.)

5. Applications for takávi advances should be disposed of as promptly as possible, and Collectors should take measures to prevent needless delays. (G. R., R. D., No. 6537, dated 2nd November 1881.)

6. To avoid delay in obtaining a loan under the Land Improvement Loans Act, XIX of 1883, the period during which proceedings should be suspended to receive objections should be limited to one month from the date on which the notice under Section 5 of the Act is published. (G. R., R. D., No. 9214, dated 21st November 1884.)

7. In exercise of the power conferred by Section 5 of the Land Improvement Loans Act, 1883, the Governor in Council is pleased to direct that notices issued under the said section shall be published by causing written copies thereof to be stuck up in one or more conspicuous places in the village, town or city in which the work for which a loan has been applied for is to be executed. (G. R., R. D., No. 1691-B, dated 3rd March 1886.)

8. When an inámdár's tenant desires to obtain a loan under the Land Improvement Loans Act, it is expedient that the inámdár should join the tenant in the application for the loan. It is not desirable that the tenant should be able to act without the consent of the inámdár in such cases. It should be the duty of the landlord to supply the relief afforded by loans for agricultural purposes, and it is not a good policy for Government to take the place of the inámdár or landlord in such a case, nor would it always be to his rayat's advantage. (G. R., R. D., No. 1883, dated 20th March 1888, and G. R., R. D., (Famine) No. 409-Fam., dated 5th February 1897.)

9. The estimates of advances under the Land Improvement Loans Act should reach the Accountant General in time to enable him to forward to Government a consolidated estimate for submission to the Government of India in November. Any alteration which may be made when forwarding the estimate to the Supreme Government will be communicated to the Accountant General, who will be able to include it, with or without the orders of the Government of India thereon, in his cash requirement estimates. The estimates of other advances prepared by the District officers should be consolidated in the Commissioners' offices and forwarded by the 1st of December each year to the Accountant General, who should compile and submit to Government a general estimate for the entire Presidency for the orders of Government being passed thereon in time for its inclusion in his cash requirement estimates. (G. R. No. 2306, dated 14th June 1889.)

10. It rests with the Collector to make and submit to Government an estimate of the amount of takávi he requires for his district. After allotments to the various districts, in accordance with the estimates received therefrom, have been sanctioned, *i.e.*, soon after the beginning of the financial year, Commissioners have power to make any re-distributions they think necessary among the districts in their respective divisions; and even if the total allotment for a whole division is considered insufficient, Government are usually in a position to increase it to any small extent required. There need and should be no delay whatever. (G. R., R. D., No. 9116, dated 20th December 1890.)

11. Under Class I (Loans to Cultivators) the annual grants should ordinarily be by districts, but this will not preclude the Commissioners from making all necessary re-appropriations within their respective divisions, increasing the allotment for one district by decreasing that for another or for others. Should it not be possible for one Commissioner to utilize the total grant at his disposal, early intimation of the fact should be given to Government to admit of the available surplus being transferred to another division. (G. R. No. 1320, dated 11th April 1894.)

12. Though Government fully recognize the extreme difficulty of preparing accurate estimates of takávi advances before the commencement of the year in which the advances are to be made, they must impress on District officers the necessity of reporting in good time the fact that any considerble portions of their allotments are not likely to be utilized, with a view to their being transferred to other districts in which the demands are in excess of the allotments. These explanations should be forwarded to Government direct instead of through the Accountant General. They should, however, be furnished not by the Collectors, but by the Commissioners, who should be instructed, in the first place, to report to Government in good time the amounts which, as not being likely to be utilized, can with advantage be transferred to the takávi allotments of other divisions or be made available for loans to local bodies, &c., and in the second place to submit full explanations, soon after the close of each official year, of the cases in which sums assigned to them for takávi, and not subsequently reported as being available for re-appropriations, have failed to be utilized in their respective divisions. (G. Rs. Nos. 4197, dated 22nd December 1890, and 2770, dated 5th July 1892.)

13. The Commissioners should distinctly show in their annual reports on agricultural and other revenue advances the outstanding balances recoverable during the current year and those recoverable in future years. (G. R., R. D., No. 5165, dated 19th July 1889.)

14. The Commissioner of Customs, Salt, Opium and A'bkári is authorized to write off irrecoverable

balances of takávi up to Rs. 100 in each case. He should submit an annual register of such cases to Government. (G. R. No. 637, dated 22nd February 1890.)

15. The following instructions are laid down for the guidance of District officers in making advances to cultivators under Acts XII of 1884 and XIX of 1883:—

(1) Government do not wish that these Acts should remain a dead letter. This fact should be generally made known to the rayats and due notice should be taken of all cases in which the rayats complain of inattention on the part of the Government officers in the matter of making advances.

(2) The public notice contemplated in Section 5 of Act XIX of 1883 should not be issued except in cases of large loans for improvements which might affect prejudicially neighbouring holdings.

(3) The Commissioners of Divisions in their joint report on this subject have made the following suggestions:

"Each Mámlatdár should select 8 or 10 villages of a reasonable size in his táluka representing as it were specimens of groups of villages in various parts of his charge. Two or three months before the sowing season he should visit each selected village, assemble the rayats in the chávdi and explain to them fully the rules and conditions under which the advances are to be made. He should immediately ascertain who are in want of advances, make enquiries on the spot, and grant advances then and there in cash or by means of a cheque* on the táluka treasury. In the case of larger amounts, sanction of higher authority should be obtained within a month, and immediate payment made at the village by the Mámlatdár or Aval-kárkun. This should have precedence over all other work. The Mámlatdár would require about two days in each village, so that the whole would not take more than a month, allowing ten days for other urgent work, magisterial cases, and travelling. The result would be that the rayats of villages in which advances are thus made, as also those of adjoining villages, will practically understand what the rules are, and will be able to appreciate the benevolent intentions of Government. If this process be repeated for two or three years, changing the villages each year, every one in the táluká would thoroughly understand the rules, &c."

These suggestions of the Commissioners are approved and should be acted upon.

* The custody and supply of copies of the cheque-books should be undertaken by the Superintendent, Government Central Press. Arrangements for the printing and supply of cheque-books in Sindhi should be made by the Commissioner in Sind. (G. R., G. D., Nos. 3018, dated 25th August 1891, and 981, dated 25th March 1892.)

(4) The sufficiency of the security offered by the intended borrower should not be tested with unnecessary severity. The officer granting the loan should, in this matter, be guided by the same tests as an ordinary money-lender applies in the case of private loans.

(5) In cases where advances prove irrecoverable, the personal responsibility of Mámlatdárs should not be enforced when no fraud is proved, and the Mámlatdár can establish to the satisfaction of the Collector and Commissioner that he made proper enquiries and took reasonable precautions.

(6) Assistant and Deputy Collectors while on tour should set an example to the Mámlatdárs by personally taking up and disposing of a few cases every year. Instances of marked interest taken by any táluka officers should be especially brought to the notice of Government by the Commissioners.

(7) Applications for loans under the Agriculturists' Loans Act should be disposed of as speedily as practicable, and if possible within one month from the date of the application.

(8) Rules 10, 13, 16, 17 and 19 under the Land Improvement Loans Act and Rules 5 (*b*), 7 and 10 under the Agriculturists' Loans Act should be administered by the District officers in a liberal spirit.

(9) To bring the advantageous offers of Government to the attention of the rayats, notices should be issued in all the villages throughout the district and published in the first place in the chávdi of the village, a copy being kept in the current daftar of the village accountant.

(10) In districts where establishments of the Agricultural Department are employed, the officers of that department should suggest such improvements to the cultivators as occur to them.

(G. R., R. D., No. 3016, dated 2nd May 1891.)

16. The Superintendent, Government Central Press, should print the several forms appended to the rules* under the Land Improvement Loans Act, XIX of 1883, and the Agriculturists' Loans Act, XII of 1884, circulated with G. R., R. D., No. 3016, dated 2nd May 1891, in Gujaráti, Maráthi and Kánarese and keep copies in stock to meet requirements, which should be communicated to him direct. G. Rs., G. D., No. 3018, dated 25th August 1891.)

17. The Governor in Council does not think that different rates of interest on loans under the Agriculturists' Loans Act, 1884, should be charged in different districts and different parts of the same district unless there are circumstances which justify the distinction. In cases in which orders have already been issued, a rate of five per cent. has been

* Printed at pages 110—112 and 114 and 118 of the Compilation of General Rules.

fixed, and that should be regarded as the rate to be generally prescribed. Advances already made will not be affected by these orders; the interest on them will be recovered at the rate arranged when they were given. (G. R. No. 5461, dated 29th December 1897, and No. 2762, dated 22nd June 1898.)

18. The use of the word 'grain' in Rule 2 (*a*)* of the rules under the Agriculturists' Loans Act is purely tautological. It was not contemplated to make advances for the purchase of food or fodder. (G. Rs., R. D., Nos. 383, dated 19th January 1892, and 584, dated 26th idem.)

19. In disposing of applications for takávi advances on the security of devasthán or watán inám land when no other security is offered, each case must be decided on its own merit. As a rule, however, loans of amounts considerable enough to require a mortgage-bond should be granted only to persons having transferable right to property which they offer as security. (G. R., R. D., No. 1707, dated 10th March 1892.)

20. The Agriculturists' Loans Act XII of 1884 has not been construed in this Presidency to cover loans for the repayment of debt bearing exorbitant interest, even although those debts might have been incurred for the purposes contemplated by the Act. (G. R. No. 3139, dated 1st April 1892.)

21. As in many parts of the Presidency *bonâ fide* cultivators do a considerable amount of money-lending, it is possible that some portions of the sums advanced as takávi may be taken up by well-to-do cultivators, ostensibly for the purchase of seed, cattle, or improvement of the land but really with a view to make a profit by borrowing from Government at a low rate of interest in order to lend at higher rates to poorer and less intelligent cultivators than the original borrowers. The Commissioners should instruct the Collectors in their charge to carefully watch these advances in order to prevent abuse of the privilege conceded by Government. (G. Rs., R. D., Nos. 8611, dated 12th December 1891, and 3580, dated 22nd April 1892.)

22. There is no reason why Government servants as well as other persons should not receive takávi, but all applications for takávi on account of an officer of and above the rank of a kárkún serving in the district where the land is situated should be granted only on the special order of the Collector. (G. R. No. 3831, dated 27th September 1892.)

23. On the question (*a*) whether action is necessary to remove a Civil Court's attachment placed on certain lands given as security for repayment of loans made under Act XIX of 1883, and (*b*) whether Government sanction is necessary to such proceedings, the following opinion, No. 309, dated 6th March 1894, was recorded by the Legal Remembrancer:—

* Printed at page 110 of the Compilation of General Rules.

"With regard to the first of these points, I would submit that the Court is bound, under Section 287 of the Code of Civil Procedure, for the purpose of ascertaining the matters to be specified in the proclamation of sale, including the revenue assessed and any incumbrance to which the property is liable, to be guided by the rules at page 48 *et seqq.* of the High Court Circular Orders (Civil), Section 90, and therefore to make a preliminary enquiry as prescribed in the paragraph marked (ii), to examine the judgment-debtor in the manner prescribed on page 49 of the Circular Orders, and to issue, under paragraph 6 (*a*), page 50, a notice with the prohibitory order or decree for verified statements of the claims set up.

"If objection is taken to the attachment, or its removal is sought, an application would be necessary for notice to the judgment-creditor under paragraph 6 (*c*) on page 50, but if all that is sought is that the 'sale * * may be made with intimation to the parties concerned of the right or interest set up by the claimant,' the Court is bound to give notice of the claim with the proclamation of sale, if on summary enquiry there appears reasonable and probable cause for the same.

Page 48, High Court Circular Orders (Civil), paragraph (ii).

"It is possible that if the Court's attention were drawn to these rules, which are intended for the protection of purchasers, the Court would recognize the nature of the duty imposed on it to make enquiry, and would not insist on a written application at all in such cases as that now under discussion.

"It would, however, seem desirable that if the Court refuses to take notice of such claims without the formal application, apparently insisted on, the Government Pleader should be directed in this instance to make it, and possibly Government might deem it desirable afterwards that the High Court should be addressed with a view to the rules being rendered more explicit on this point.

"The recovery of the loan as an arrear of land revenue, either out of the land for the benefit of which the loan was granted, or out of the property comprised in the collateral security, is provided for by Section 7 (1) (*c*) and (*d*) of the Land Improvement Loans Act (XIX of) 1883, and Government will retain their lien upon the land both as against prior mortgagees and subsequent purchasers of the borrower's interest therein.

"But, in case of attachment, the preferences secured to the claims of Government by Section 137 of the Bombay Land Revenue Code, 1879, will apparently be restricted under Section 151 of that Code to processes for recovery of demands for the current year, in which those processes are concerned.

"Revenue processes for recovery will probably be issued within the year in which the instalments fall due, so as to give them the necessary precedence over all other claims.

"With reference to the second point raised, I would submit that Rule 66 of the Rules for the institution and defence of suits would appear to authorize the Collector to take in such a case as the present the necessary action in anticipation of the orders of Government, his proceedings being reported at once through the prescribed channels.

"The recovery of costs in such an instance as the present should apparently be determined by the Court under the paragraph marked (*iii*) at page 53, Bombay High Court Civil Circular Orders, and should certainly not fall on Government.

"The Pleader's fee in this instance will be decided by the Court, but it appears to me very doubtful whether it was intended in the rules under Section 287 of the Code of Civil Procedure that a formal application and appearance on behalf of Government should be necessary in such cases.

"The security bond in the Form L prescribed by the rules at page 204 of the *Bombay Government Gazette* for 1886, Part I, does not appear to provide expressly for recovery of costs incurred in resisting counter-claims, but such costs would probably be covered by the words in the first paragraph of Section 7 (1) of the Land Improvement Loans Act, 1883, as costs incurred in making the loan."

(G. R. No. 986, dated 14th March 1894.)

24. On the question whether if Government grant a takávi advance to a cultivator whose land has already been mortgaged, such advance takes priority of the mortgage and constitutes the first charge on the land, the following opinion, No. 1551, dated 7th November 1896, was recorded by the Legal Remembrancer :—

"With reference to your letter No. 175-M. of 30th ultimo concerning the nature of the priority (under Section 7 of Act XIX of 1883) of the Government claim for *tagái* advances over previous mortgages, I have the honour, in the first place, to draw the attention of Government to paragraph 6 of this office report No. 309 of 6th March 1894 quoted, and approved of, in Government Resolution No. 986 of 14th March 1894.

"2. The paragraph runs as follows :—

'6. The recovery of the loan as an arrear of land revenue, either out of the land for the benefit of which the loan was granted, or out of the property comprised in the collateral security, is provided for by Section 7 (1) (*c*) and (*d*) of the Land Improvement Loans Act (XIX of) 1883, and Government will retain their lien upon the land both as against prior mortgagees and subsequent purchasers of the borrower's interest therein.'

"3. From the extract of the letter of Collector of Ahmednagar, quoted in paragraph 1 of your letter, it appears that the particular question is whether Government would lose a portion of the advance if a sávkár (or mortgagee previous to the loan) sells up the tenant 'before the advance is fully repaid'; in other words, whether Government retain a lien on the land as against such prior mortgagee.

"4. Looking to the wording and spirit of Act XIX of 1883, and especially of Section 7 of the Act, I fully agree with the opinion expressed by my predecessor, the Honourable Mr. Batty, as quoted above. That opinion applies also to the present case. In the circumstances given, Government would, therefore, not lose their right to the balance of the advance, but would reatain a lien on the land as against the mortgagee. Since Section 7 (1) (*c*) of the Act distinctly states that the loan may be recovered 'as an arrear of land revenue' it would follow that, as soon as the loan or a portion of it becomes due, the Government claim would become a first charge on the land so far as the prior mortgage was concerned—*cf.* the paramount nature of the claim for arrears of land revenue, Sections 56, 137, and 153, Land Revenue Code."

(G. R. No. 3859, dated 14th November 1896.)

25. Takávi advances may be given on the ordinary conditions even when the land is mortgaged up to almost its full value, but great care must be exercised to prevent the advance in any case of an amount in excess of a reasonable estimate of the realisable value of the borrower's land. (G. R. No. 3880, dated 16th November 1896.)

26. Government have expressed concurrence in the opinion expressed by the Commissioner, C. D., in paragraph 2 of his memo. quoted below;

and have directed that tagái advances should not be granted to persons who have mortgaged with possession to the mortgagee the land on account of which the advance has been applied for:—

"2. The memorandum of the Legal Remembrancer printed in the body of Government Resolution No. 3859, of the 14th November 1896, seems to show that land mortgaged on any conditions can be accepted as security for repayment of tagái without the paramount lien of Government on the land being affected by the nature of the mortgage in particular cases. The question, however, whether it is safe or expedient to grant loans on the security of lands mortgaged with possession is a distinct one and must apparently be decided according to circumstances. An applicant for a loan who has no interest in any land other than that which he has already given in the occupation of another in mortgage cannot need advances for agricultural purposes and should not get them. In the cases which have led to the present reference the land offered on security as well as that on account of which loans have been applied for is in the possession of the mortgagees, and tagái should, in the opinion of the Commissioner, be certainly refused. On the other hand, such land may be accepted as collateral security where its value together with that of the other assets pledged is sufficient to cover the whole of the demand on account of principal and interest."

(G. R. No. 243, dated 12th January 1899.)

27. When Government has taken a mortgage-deed for securing a loan granted under Act XII of 1834, it cannot obtain sale for default under the mortgage except by civil suit, unless the deed complies strictly with the provisions of Section 69 of the Transfer of Property Act. But it should be clearly understood (1) that, in order to enable Government to proceed against the right of an occupancy or ordinary tenant in his holding for the recovery of such a loan, it is not necessary for Government to hold a mortgage over that right, and (2) that the possession of such a mortgage in no way impairs the power of Government to recover the loan summarily as arrears of land revenue by sale, under Section 5, Act XII of 1884, and section 94 (*g*) of the Central Provinces Land Revenue Act, of such transferable rights as the tenant may possess in the property. The Government is at liberty to recover its loan by either or both of two processes: first as a mortgagee under its mortgage, and secondly, in the exercise of the powers conferred by Section 5 of Act XII, but the two processes must be resorted to separately. The possession of a mortgage does not place the Government in a better position when recovering the loan as an arrear of revenue, nor does the possession of the power to recover as arrears of revenue place the Government in a better position when enforcing its right as a mortgagee, or remove it from the operation of the ordinary provisions of the law regarding mortgagees.

The Government of India, as at present advised, are of opinion that, when proceeding summarily under Section 5 of Act XII, the Government has the power to sell (subject of course to the rights of all other persons) any transferable interests held by any class of tenant in the land, whether these could be voluntarily alienated by the debtor or not.

(G. I., R. & A., No. $\frac{2026}{387\text{-}3}$, dated 8th July 1895; *vide* G. R. No. 2669, dated 6th August 1895.)

28. All Collectors in submitting estimates of loans and advances to the Accountant General should explain briefly each year the cause of any marked variation in recoveries under Class I. (G. R. No. 194, dated 15th January 1894, para. 3.)

29. Takávi advances may be made by Mámlatdárs within the limit prescribed on a report after local inquiry by a trustworthy kárkún, provided the Mámlatdár records on the application the grounds for deputing the kárkún to make the inquiry; and No. 4 (3) of the rules under Act XII of 1884 may be construed accordingly. But advances should not be made on a report from the patel and taláti, as permission to do so would virtually be to delegate to these officers the power of granting loans. (G. R. No. 1125, dated 20th March 1896.)

PART II.—LOANS TO LOCAL AUTHORITIES.

1. A ferry steamer is a work of public utility within the meaning of the rules* prescribed under the Local Authorities Loan Act, 1879. (L. R. No. 1391, dated 12th October 1883; *vide* G. R. No. 3815, dated 22nd idem.)

2. Statements shall be annually prepared and furnished by each Accountant General to the Comptroller and Auditor General of loans from the State to local authorities, and of loans raised by the latter in the open market, in the form given below:—

Annual Statement of Loans under the Local Authorities Loan Act, 1879.

Name of Local Body.	Purpose of Loan.	Authority for Loan.	Amount of Loan sanctioned.	Rate of Interest.	Total Amount owing.		Transactions during year.	
					To Government.	To the Public.	Borrowed.	Repaid.

(G. I., F. & C., Nos. 1110, dated 29th February 1888, and 2730-A., dated 1st July 1892; *vide* G. Rs. Nos. 809, dated 19th March 1888, and 2950, dated 19th July 1892.)

3. In order to provide employment for indigent labour in case of distress consequent on failure of crops, the Government of Bombay is allowed discretion to advance up to Rs. 20,000 to a Local Board for any one work, and Rs. 10,000 altogether to a Municipality on the following conditions:—

(1) The loans are to be made repayable in 10 years.

(2) Interest to be charged at a rate fixed by the Government of Bombay.

(3) No loan not bearing interest is to be made without the permission of the Government of India.

No special orders of the Government of India are required empowering the Government of Bombay to fix the rate of interest on loans to tálukdárs under the Land Improvement Loans Act, in connection with works intended for the relief of indigent labour, as under the rules the Local Government is empowered to sanction the grant of a loan under the Land Improvement Loans Act at a reduced rate of interest or without interest.

(G. I., F. & C., No. 85, dated 4th January 1889; *vide* G. R. No. 534, dated 21st idem.)

4. Government having authorized a Municipality to borrow money between the 1st January

Vide Part VIII of Compilation of General Rules

and 31st March 1890, with conditions as to repayment by instalments commencing, from 1st April 1891, that Municipality would not appear to have been authorized thereby to borrow between the 5th September and 5th October 1890, with condition for the first instalment in repayment to fall due on 1st September 1891.

When borrowing powers are conferred on a Corporation subject to special conditions, the Legislature is held to have intended to prohibit all borrowing except that which it has expressly authorized. And when such powers are dependent on the consent of an authority they are strictly limited by the terms and conditions on which such consent may have been given.

Maxwell on Interpretation of Statutes, 332.
Brice on *Ultra Vires*, 233.
Rawlinson's Municipal Corporation Act, 188, note (*d*), 8th edition.
Owen's Municipal Corporation Act, 112.

Thus when the law required the consent of the treasury to authorize a corporation to create a charge on its property, it was held 'such consent can authorize no alienation or charge further than is specified in the memorial on which it is founded,' and could not authorize a charge created seven years after the consent was given, even though the consent itself specified no date within which the power was to be exercised.

Arnold *vs.* Mayor of Gravesend.
Pallister *vs.* the same. 25 L. J. Ch., 776.

The same principle would apply though the time for raising the loan had been exceeded only by a month or even by a day. Fresh authority should be applied for on the expiry of the term within which the receipt of the loan was authorized.

The receipt of the money after the date allowed is *ultra vires*, and as such, under Section 8 of the Act, the contract entered into by the local authority in question would be void. The local authority would of course be liable for the amount as for money had and received, but to render it a loan under a valid contract settling its conditions, would require a fresh authorization from Government.

For the reasons given at Brice, page 746, mere ratification by Government would not avail to rehabilitate the contract. The words of Lord Chelmsford reported at L. R. 7 H. L., 679, seem applicable. 'The contract entered into was not a voidable contract merely, but being in violation of the prohibition contained in the Act, was absolutely void. It is exactly in the same condition as if no contract at all had been made, and therefore a ratification of it is not possible. If there had been an actual ratification, it could not have given life to a contract which had no existence in itself.' It would have been different if the transaction had been one which could have been validated without the assent of any *outside* authority.

Brice, page 747, and see also Spackman *vs.* Evans.
3 H. of L., 171

For these reasons a new contract under new authorization would be necessary to validate the transaction if that was desired: mere ratification of the void contract would not be sufficient. But Government having already gone through all the prescribed formalities necessary to empower them to authorize a loan to the Municipality, no repetition of the enquiries, &c., required by the rules, appears necessary. All that is necessary is that Government should exercise its power to authorize the Municipality to borrow the money now, which the Municipality has hitherto borrowed unauthorizedly. Government having already acted under Rule 8 and published an application, it is open to them to extend their sanction to any other date than that mentioned in the original application. Neither the rules nor the Act impose any restriction on the power of Government as to the time when they may authorize a loan, provided that the requirements of the rule as to previous consideration and enquiry have been complied with. The essential point appears to be that no deviation by the Municipality authorized is allowable from the conditions of the sanction, without the previous authorization of Government.

There is no objection to Government according sanction to the money being borrowed from any date that Government may choose to fix, either from the persons by whom it has already been advanced or from any other tenderers.

(Legal Remembrancer's Nos. 1852, dated 13th December 1890, and 63, dated 15th January 1891; *vide* G. R. No. 282, dated 26th idem.)

5. It has been repeatedly and publicly enunciated that the supply of water is a local matter, and that there is no reason why the general taxpayer should pay for the supply of local necessities. The only consistent course is to insist on local resources finding the means and to aid Municipal or Local Boards, as the case may be, by the advance of loans. (G. R. No. 4439, dated 19th December 1891.)

6. His Excellency the Governor in Council is pleased to publish for general information the following subsidiary rules framed with a view to carrying out the provisions of Rule 10 of the rules* prescribed by the Government of India for the raising of loans by Local Authorities in the open market, published at page 17 of the *Bombay Government Gazette* dated 10th January 1889:—

I.—The execution, supervision and audit of works entrusted to the Public Works Department will, as heretofore, continue to be subject to the rules of that Department as published in the Public Works Code.

II.—The rules hereinafter following apply only to works to be constructed independently of he

* Printed at pages 289—294 of the Compilation of General Rules.

Public Works Department by Local Authorities authorized under the Local Authorities' Loan Act, 1879, to raise money in the open market for the purpose.

III.—It shall be the duty of the Executive Engineer in whose district works are being constructed out of loans raised by Local Authorities in the open market under the Local Authorities Loan Act of 1879, or of any person specially authorized by Government in this behalf, to inspect such works and the accounts connected therewith at such intervals as Government or the Chief or the Superintending Engineer may direct.

IV.—Such inspection shall ordinarily be conducted twice a year, and shall be chiefly directed to ascertaining that the quantity and quality of the work executed and the progress made in construction are fairly commensurate with the outlay charged in the accounts.

V.—To enable this to be done, each Local Authority shall cause a continuous record of expenditure to be maintained, and posted monthly in the Public Works Department "Register of Works"—Form B appended to these rules. The measurements for the month and for the year and up to date must be shown for each item, but corresponding expenditure on items need only be given for those works estimated to cost over Rs. 10,000. The expenditure for the work for the month, the expenditure for the year, and the total expenditure should be shown. Columns should be provided for "Materials at site" and for liabilities. With the above information the quantities and cost (calculated on the normal cost system) may, at any time, be compared with the estimate. With the sanction of Government the account forms may be modified, and actual expenditure by items omitted in any special cases in which this is deemed desirable.

Note.—This form and the method of posting it will be found at pages 167 to 170, Government of India, Public Works Department, Form Book, Part I. A supply of working forms can be obtained from the Government Central Press.

Note.—A description of the normal cost system is given in Public Works Code, Chapter XII, paragraphs 58 and 102.

VI.—Every deviation from any project as sanctioned which in the opinion of the Inspecting officer is likely to entail any increase in the outlay exceeding five per cent. on the estimates approved, or to impair or diminish the utility of the works under construction, shall be reported to Government and also to the Local Authority authorized to raise the loan, and no such deviation shall in any case be proceeded with without the sanction of Government and of such Local Authority, or otherwise than in accordance with such requirements as Government or such Local

Authority, with the approval of Government, may impose as to additions, alterations and amendments in the estimates.

VII.—Every Inspecting officer shall furnish the Chief or Superintending Engineer with a brief report of the inspections performed by him, with such remarks on the construction and progress of the works as he may deem necessary. The Chief or Superintending Engineer shall bring to the notice of Government any points on which the orders of Government are considered to be necessary.

VIII.—The Accountant General shall be entitled to inspect the accounts of any loan work in progress, with a view to ascertaining the correctness of the annual return prescribed in Rule XI. The Accountant General is also authorized to conduct a test audit of the loan accounts of a Local Authority in such detail as he may consider necessary, in order to secure the due execution of these rules.

IX.—In regard to the loan accounts of Local Authorities whose accounts are subject to an official audit by the Accountant General, the test audit shall be conducted by the Outside Audit Branch of the Accountant-General's office. In all other cases the test audit shall be carried out once a year as the Accountant General may direct, and shall be confined exclusively to the accounts of expenditure from the loan.

X.—The Accountant General shall, not later than the 31st of December in each year, certify to Government that he has carried out the audits prescribed in Rules 8 and 9, and shall bring to the notice of Government any points in connection with the expenditure on which it is considered that the orders of Government are required.

XI.—The Collector shall require all Local Authorities by which works are being constructed out of loans to furnish to him an abstract in Form A appended to these rules, showing separately for each work under construction out of a loan the expenditure incurred on the work during the preceding official year and signed and duly certified as provided in the form by the principal officer of the Local Authority concerned, or by an officer duly authorized in that behalf, and shall forward such account to the Accountant General on or before the 30th of June in each year.

A.

MUNICIPAL CORPORATION, PORT TRUST OR LOCAL BOARD OF _____

Abstract of Expenditure up to 31st March 1890 on works under construction from a loan raised under the provisions of the Local Authorities' Loan Act XI of 1879 :—

Purpose of Loan ... ...
Authority for Loan ... ...
Amount of Loan sanctioned ...Rs._____
Amount of Loan actually raised on 31st March 1890 ... ... „ _____

Expenditure.

Gross sum expended during previous years up to 31st March 1890.		During the year from 1st April 1889 to 31st March 1890				Total for the 12 months from 1st April 1889 to 31st March 1890.			Progressive Total up to 31st March 1890.		
		April 1889...									
		May „ ...									
		June „ ...									
		July „ ...									
		August „ ..									
		September „ ...									
		October „ .									
		November „ ...									
		December „ ...									
		January 1890 ...									
		February „ ...									
		March „ ...									
		Total...Rs.									

I hereby certify that the above is a true abstract of the expenditure incurred on the purpose stated, and that I have duly received and passed vouchers in support thereof.

Certified also that no portion of the amount spent or of the balance of the loan has been diverted to any other purpose, and that the balance of the loan Rs._____, is actually in hand or has been advanced for purposes exclusively connected with the works in progress.

Commissioner or Chief Local Authority.

B.

[P. W. D. Form No. 30A.—Outer Sheet.

_____DISTRICT. _____FUND.

REGISTER OF WORKS.

Name of Work—
Authority as to Estimate—
Amount of Estimate—
Authority as to Allotment—
Amount of Allotment—
Work commenced on

Names of Engineers and Subordinates by whom the work was supervised and the period of their incumbencies :—

Names	From	To

Work completed on the _____.
Completion Report submitted to the Examiner, Public Works Accounts, with this Office No. ____ dated

_____ Accountant.

Executive Engineer,
District.

NOTE.—This form will be used for all works costing over Rs. 2,500, whether accounted for according to *actual* or *normal* cost. When used for the latter class of works, the blank column immediately preceding "Total value of work done" should be headed "Total normal cost."

NAME OF WORK—

Months, &c.		Quantity.	Amount.	Quantity.	Amount.	Quantity.	Amount.	Quantity.	Amount.
Estimate ...	Rate ...								
Expenditure of previous year brought forward.	...								
	Rate ...								
April 189 ...	...								
	Total ...								
	Rate ...								
May... ...	...								
	Total ...								
	Rate ...								
June ...	...								
	Total ...								
	Rate ...								
July ...	...								
	Total ...								
	Rate ...								
August ...	...								
	Total ...								
	Rate ...								
September ...	...								
	Total ...								
	Rate ...								
October ...	...								
	Total ...								
	Rate ...								
November ...	...								
	Total ...								
	Rate ...								
December ...	...								
	Total ...								
	Rate ...								
January ...	...								
	Total ...								
	Rate ...								
February ...	...								
	Total ...								
	Rate ...								
March ...	...								
	Total ...								
	Rate ...								
March (Supplementary)	...								
	Total ...								
	Rate ...								

				Work Expenditure as compared with Cash Expenditure.				
	Total value of work done.	Materials at site.	Advances.	Total.	Deduct arrears due.	Total outlay to date from commencement of work.	Total outlay during the current year.	Initials of the Executive Engineer and Accountant, to transactions of the month.
Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	Amount.	

Explanation of difference or deviations from the sanctioned estimate:—

Item No.	Particulars.

Executive Engineer,
_____ District.

(G. N. No. 554, dated 9th February 1894.)

7. When works undertaken by any Local Authority are entrusted for execution to the Public Works Department or to an officer of that Department specially selected by Government, monthly progress reports of the expenditure incurred on the work may be supplied to such Local Authority by the Executive Engineer concerned in the shape of extracts from the "schedules of expenditure" as is done in the case of Incorporated Local Fund outlays.

There is no reason why a percentage fee should not be levied for the inspection of works and the audit of accounts to be performed by officers of Government inasmuch as the inspection and audit will promote economy and efficiency. In each case the Accountant General may determine the fee to be charged for the audit of loan accounts by an officer of the Account Department, and the Chief Engineer or Superintending Engineer that to be levied for the inspection of work by an officer of the Public Works Department, subject to the sanction of Government.

(G. R. No. 554, dated 9th February 1894.)

Rule 10 in Notification No. 15.
" 9 " " 16.

8. Under the marginally-noted rules prescribed in the Notifications* of the Government of India of 1st January 1889, Nos. 15 and 16, certain applications from local authorities for the grant of loans from Government or for permission to raise loans in the open market are referred to the Government of India for orders after the expiry of one month from the date of their publication in the local official Gazette, and the issue of final orders on such applications is liable to be delayed if the Government of India find it necessary to raise objections to the loan on points of principle, or to make enquiries in connection with it. With a view to minimise such delay in future, copies of all applications which under the rules above quoted require the final orders of the Governor General in Council, together with the particulars, if any, which the Local Gov-

* Printed at pages 289—294 of the Compilation of General Rules.

ernment may think it necessary to publish, may be forwarded to the Government of India simultaneously with their publication in the local official Gazette. (G. I., F. & C. No. 942-A., dated 20th February 1894; *vide* G. R. No. 861, dated 7th March 1894.)

9. In paragraph 7 of the Resolution of January 1889, introducing the system under which local loans are made from resources placed at the disposal of Local Governments, and prescribing rules for giving effect to it, 4 per cent. per annum was prescribed as the rate of interest to be charged to Local Governments on their outstanding balances. As the bulk of the rupee debt of the Government of India now bears interest at the rate of 3½ per cent., the Governor General in Council has decided to reduce the rate charged to Local Governments under the Local Loans scheme rate to 3½ per cent. per annum with effect from the 1st April 1897.

Under the Local Loans Scheme the rate of interest to be charged on any loan was left to the discretion of the Local Government. But it was intended that the rate charged, even when the security is of the best, should be somewhat higher than that payable to the Government of India. In some cases this intention has not been carried out, and loans have been made at the rate of 4 per cent. In ordering the reduction of the rate stated in the preceding paragraph, His Excellency the Governor General in Council thinks it well at the same time to direct that no loan shall be made in future, without the previous assent of the Government of India, at a lower rate of interest than 4 per cent., except in the case of advances made under rules sanctioned by the Government of India in which lower rates are allowed.

His Excellency in Council is also pleased to direct that Local Governments shall not, in consideration of the reduction now made in the interest charged to them, reduce the rate of interest settled in the engagement regarding any loan granted in the past, without a previous reference to the Government of India. The Government cannot be called upon to depart from the usual business practice of adhering to the terms of a formal engagement already made.

(G. of I. Resn. No. 852-A, dated 20th February 1897; G. R. No. 1383, dated 26th March 1897.)

10. The Local Authorities (Emergency) Loans Act is intended to facilitate borrowing for temporary emergencies only, and the expenditure to meet which the loans will be applied is such as should ordinarily be met from current revenue. The term for repayment ought therefore in all cases to be short. In some instances the borrowing will practically be necessitated only by low balances of which early replenishment may be expected, and the Local Authority will in such cases probably be in a position to repay the loan within a year: a term not exceeding five years ought to be sufficient in most

ordinary cases, and the Government of India are inclined to think that ten years should be regarded as the maximum term for repayment in any case. (G. of I. Circular letter No. 1414-A, dated 27th March 1897; G. R. No. 2942, dated 8th July 1897.)

11. The main object of the Provincial Loan Scheme (Government of India Resolutions No. 2169, dated 26th November 1888, and Nos. 13, etc., dated 1st January 1889) was to place money at the disposal of Mofussil Municipalities to which the loan market is practically closed, and which, if they can borrow at all, can do so only at excessive rates of interest. The task of financing the larger Municipalities by loans is one that is beyond the power of the Government of India, and the larger Municipalities have continued to have recourse to the money market and have not depended upon Government for loans. (G. of I. letter No. 4501-A, dated 14th October 1898; G. R. No. 4924, dated 27th October 1898.)

PART III.—LOANS TO TA'LUKDA'RS, ENCUMBERED ESTATES, &c.

1. It is undesirable that any action should be taken by a Local Government which might be construed as conveying its approval to the issue by an indebted zamindár of debentures on the London market. Even in the case of a solvent zamindár, only the most exceptional circumstances would justify encouragement being given to him by Government to raise a loan in England. In any case, therefore, in which it may appear to a Local Government to be desirable to give any encouragement to a zamindár to issue debentures on the London market, the circumstances should be fully reported to the Government of India and its sanction first obtained; and in every such case it should be particularly stated what precautions will be taken or how the Government is assured that the money to be raised will be properly utilized for the benefit of the zamindár's estate and tenants. (G. I., H. D., No. 9-692, dated 5th April 1889; *vide* G. R. No. 1727, dated 30th idem.)

2. The following are the rules for the repayment of loans granted to the Kaira Thákurs under the Broach and Kaira Encumbered Estates Act:—

All payments on account of loans advanced to Kaira Thákurs shall ordinarily be made as soon as possible after the close of the revenue year and before the 15th of September following whenever the balance available for the purpose shall have been finally ascertained by the Manager.

Provided that nothing in this rule shall prevent the Manager from repaying the loan or any portion of the same at any time before the close of the revenue year that it may appear expedient to do so, subject however to the provisions of Rule 2.

2. The payments so made shall be disposed of as follows:—

(*a*) The interest for the year accruing on the principal sum lent shall first be discharged.

(*b*) The balance available after the payment of the interest for the year shall be devoted in the first place to the discharge of any arrears of interest which may have accrued and afterwards to the repayment of the principal in such proportions as may from time to time be fixed by the Manager.

(G. I., R. A. & C., No. 615, dated 3rd October 1878; *vide* G. R. No. 3671, dated 11th idem.)

3. Whenever public money is advanced on loan, it should be repaid in equal half-yearly instalments, including interest. The amount of such instalments will be fixed in the order sanctioning the loan, but if accidentally the amount be omitted, or if it seem to him that an error has been made, the Accountant General should immediately apply for orders.

In dealing with the instalments in the accounts, the due interest should be credited to Government and the remainder towards reduction of the capital debt.

(G. I., F. D., No. 4045, dated 30th October 1875; *vide* G. R. No. 3782, dated 20th November 1875.)*

4. The foregoing ruling of the Government of India should be adhered to in the case of loans granted to Tálukdárs. (G. R. No. 2465, dated 8th June 1876.)

5. In repayments on account of loans granted by Government under the Broach and Kaira Encumbered Estates Act XXI of 1881 the sum paid should be devoted to the satisfaction of the claim for interest, and only any balance left after such claim is satisfied should be credited to the repayment of principal.

The 31st of July should be the date for the annual closing of the accounts of the loans granted under Act XXI of 1881.

(G. R. No. 2128, dated 10th July 1888.)

6. Compound interest should be charged on the advances made to the Thákurs or Tálukdárs in the Broach District under Act XXI of 1881 at the rate of 6 per cent. a year. (G. I., F. & C., No. 6535, dated 7th December 1888; *vide* G. R. No. 3979, dated 24th idem.)

7. In reply I am to point out that the system of making State loans to embarrassed estates under the management of Government is accepted in no other part of India. Bankers, both European and Native, are elsewhere found ready to come forward and lend money at rates of interest ranging from 6 to 8 per cent. on the security of Government management. It is on all grounds expedient that the same system should be introduced into Sind and that a serious effort should be made to secure the necessary loans in the local market. It is obvious that at the best of times the money which Government can afford to spare for such an object must be very limited in amount and must, moreover, be taken from other and very pressing claims. When the local money market is once attracted to these schemes, the operations in aid of encumbered proprietors can obviously be carried out on a very much larger scale.

If the Collectors altogether fail in their endeavour to attract local aid, the Government of India will not refuse help in the matter; but they will be able to give it on a limited scale only, and for the reasons stated above they are of opinion that all such advances should bear interest at 8 per cent.

No money may be lent by Government for the assistance of an encumbered estate under the Act without the previous sanction of the Governor General in Council. If in any case it should be

* *Vide* also Article 129, Civil Account Code.

found necessary to apply for that sanction, it should be fully explained why it is proposed to set aside the principles which have been explained in this letter.

(G. I., R. & A., (R. R.) No. 3499(*a*)—177-6, dated 12th September 1896; *vide* G. R., R. D., No. 8037, dated 13th October 1896.)

8. When any liquidation scheme is framed, part of the charge included in it should be the expenditure incurred by Government in the preliminary management and in the preparation of the liquidation scheme. The amount recoverable on this account should when realized be credited in the Accounts as Revenue Receipts (Miscellaneous) in recovery of the charges noted. It will be the duty of the Commissioner in Sind to see that the proper amounts are thus noted for recovery and realized from the various estates. The transaction is not an advance and should not be shown as such, but rather as expenditure and its recovery. (G. R., R. D., No. 1661, dated 2nd March 1897.)

9. If the Manager, Encumbered Estates in Sind, desires to obtain money for agricultural improvements or for other agricultural purposes provided for in the Agriculturists' Loans Act, 1884, he should apply for tagái in the usual manner, and the Commissioner should include the requirements of the Manager of Encumbered Estates in his annual requisitions for loans under Class I. (G. R., R. D., No. 840, dated 2nd February 1899.)

10. The bulk of advances required for Encumbered Estates are made under the Land Improvement Loans Act of 1883. In that case the Manager on behalf of an encumbered estate is empowered under No. 2 of the Rules under the Act to apply for an advance to any Revenue officer not below the rank of Mahálkari; he need not therefore apply to a Collector, but can apply direct to the Commissioner, who can keep in his hands an allotment large enough to meet the Manager's requirements. Should the Manager's applications under the Agriculturists' Loans Act, 1884, be sufficiently numerous and considerable in amount to require special treatment, the Commissioner can represent the matter further to Government. (G. R. No. 1251, dated 13th March 1899.)

11. The Government of India consider it inexpedient to allow Government officials to become the creditors of encumbered estates under State management in Sind by lending money to the Manager appointed under the Act in connection with liquidation schemes framed by him for the estates under his charge. The prohibition contained in the Home Department Resolution No. 2-R.—87-103, dated the 16th January 1890, shall be held applicable to loans, whether on the security of a mortgage or unsecured, to estates administered under a Court of Wards or an Encumbered Estates Act. The creditor of to-day might in the course of official promotion become the Manager or the Commissioner of the Division to-

morrow, and it is easy to foresee that if such loans become general, the conduct of the Government in administering estates of private persons for the benefit of its servants might be exposed to serious criticism. There is a clear distinction between these transactions and investments made by Government servants in a public or municipal security, which is raised in the open market by tender, which is at all times freely marketable and is governed by well-known conditions. (G. I., R. & A., No. 2276-319-2, dated 30th September 1899; *vide* G. R., R. D., No. 8012, dated 10th November 1899.)

12. The Commissioners should communicate their requirements for advances under the Encumbered Estates Acts to the Accountant General in time to enable him to make proper provision in his Annual Cash Requirement Estimates. (G. R. No. 2656, dated 24th April 1882.)

13. The Government of India are, on grounds of principle, generally disinclined to accede to applications from jághírdárs for loans except in very special circumstances or under the provisions of particular Encumbered Estates Acts. (G. I., R. & A., No. 9 R.-1-266, dated 3rd January 1885; *vide* G. R., R. D., No. 654, dated 23rd idem.)

14. The loans to landlords and notabilities contemplated in the Resolution of the Government of India, No. 13, dated 1st January 1889 (*vide* G. R. No. 390, dated 28th idem), are meant for loans that have in them some purpose of a public or political character. There are the strongest objections to loans being made from the public funds for objects that are of a purely private character, and were the Government to consent to make such loans, the claims upon them would be endless, and they would be interfering in business that is much better left to private lenders. It is also not right that the appointment of a Government officer as guardian in connection with a private individual or estate should enable that individual or estate to obtain assistance from public funds which would not otherwise be available to it. Where there is no public object in view, the matter should be regarded and dealt with as a private transaction, and the Government should not ordinarily make use of its credit to extricate private estates from financial difficulties. (G. I., F. & C., Nos. 4526-A., dated 19th September 1895, and 5175-A., dated 30th October 1895; *vide* G. R. No. 3864, dated 13th November 1895.)

PART IV.—OTHER ADVANCES.

1. Advances may be made to all Assistants under the rank of a First Assistant for the purchase of tents if applied for, their monthly tent allowance ceasing until such advances are repaid. (G. N., G. D., dated 21st June 1836.)

2. The privilege sanctioned in the foregoing notification is extended also to First Assistant Collectors and officers of similar rank. (G. I., R., A. & C., No. 372, dated 17th May 1877; *vide* G. N., R. D., dated 26th idem.)

3. The rules relating to advances for the purchase of tents are extended to the Assistant Collectors of Salt Revenue, who are not above the rank of Third Grade. (G. R. No. 1291, dated 24th April 1874.)

4. Advances for the purchase of tents may be made to young Civilians when joining an appointment for the first time. (G. R. No. 312, dated 18th March 1867.)

5. Under Government Resolution No. 312, dated 18th March 1867, Financial Department, advances are made once only to young Civilians for purchasing tents, when joining appointments for the first time. By Government of India letter No. 372, dated 17th May 1877, published at page 488 of the *Bombay Government Gazette*, dated 31st May 1877, this concession was extended to First Assistant Collectors and officers of similar rank. But this does not alter the practice of allowing a tentage advance to an officer once only in each capacity. (G. R. No. 2322, dated 23rd June 1883.)

6. Tentage advances may be allowed to Junior Civilians irrespective of the question whether or not they are in receipt of tentage. (G. R. No. 1031, dated 19th March 1889.)

7. Advances to Forest officers for the purchase of tents for private use may be made on the same conditions as they are to Junior Civilians. (G. R., R. D., No. 1222, dated 3rd March 1873.)

8. The Government of Bombay is authorized to sanction the grant of advances, not exceeding two months' pay, to the Collectorate clerks, &c., for the purchase of tents for their use when they have to travel for several months in the year, on the understanding that the advances are repaid in a period not exceeding one year, and that the tents will be the property of Government until the advance is repaid. (G. I., F. D., No. 1826, dated 29th March 1876; *vide* G. R., R. D., No. 2262, dated 10th April 1876.)

9. The concession granted by the foregoing orders to Collectorate clerks, &c., of the grant of advances for the purchase of tents is extended to Registrars' clerks. (G. R. No. 2550, dated 19th July 1880.)

10. Police officers may be allowed to draw tentage advances of Rs. 400 each. (G. R. No. 458, dated 1st February 1892.)

11. To authorize advances of pay to officers ordered any where on duty is an incident of administration, and the power of granting such advances is conceded to the Local Governments and Administrations. (G. I., F. D., No. 3202, dated 19th September 1877; *vide* G. R. No. 4255, dated 6th October 1877.)

12. A permanent imprest advance of Rs. 5 should be granted to forest subordinates in executive charge of Forest ranges in the Northern Forest Division to enable them to provide for the expenditure incurred by them in feeding Forest offenders or persons against whom reasonable suspicion exists of being concerned in any Forest offence who have to be taken long distances to be brought before a Magistrate in the principal town of the táluka. (G. R. No. 3874, dated 5th November 1879.)

13. It is not contrary to the Civil Account Code, Article 1, Chapter I, to keep a permanent advance separate from the treasury balance. Rule 40* of the Local Board Rules contemplates the expenditure of money from advances. The amount of permanent advance to be allowed in any given case would be a matter for the determination of the Local Board concerned. (G. R. No. 1152, dated 21st April 1886.)

14. Subordinate Judges may draw advance to defray expenses for diet and road money to witnesses in a case under "preliminary enquiry" and adjust them subsequently by preferring bills. (G. R. No. 761, dated 14th March 1887.)

15. The Government of India have no objection to the concession of drawing advances to meet tour expenses, which under Article 137 (*d*) of the Civil Account Code applies to District officers only, being extended to all touring officers, but advances granted under Article 137 (*d*) should not be applied to the expenditure of any gazetted officer which is meant to be covered by his travelling allowance. An officer of the status of a gazetted officer should not consider it a hardship to have to pay, pending recovery, his personal travelling expenses on an ordinary tour. (G. I., F. & C., No. 1890-A., dated 17th April 1894; *vide* G. R. No. 1594, dated 7th May 1894.)

16. The only effect of extending the concession contained in Article 137 (*d*) of the Civil Account Code to all touring officers in the Bombay Presidency will be, to enable them to obtain an increase in their permanent advance. It will not entitle a touring officer to take an advance for the purpose

* Printed at page 232 of the Compilation of General Rules in force in the Revenue Department.

of meeting expenditure ordinarily covered by his travelling allowance. In these circumstances the extension of the concession to any of the touring officers in this Presidency, in addition to those specified in the article, would not serve any useful purpose. (G. R. No. 1920, dated 6th June 1895.)

17. In the Belgaum Collectorate advances may be given up to Rs. 200 to clerks and kárkúns to enable them to purchase conveyances for use when travelling with Revenue officers on circuit, the amount being repaid by monthly instalments within one year. The advances should be made to one individual only when his salary is not less than Rs. 75 a month, or to two or more clerks or kárkúns, subject to the Collector's approval, whose joint salary is not less than Rs. 75 a month. The instalments will be deducted by the Account Office from the pay of those to whom the advance is made and the conveyance would be the property of Government until the advance be repaid. In the case of death, suspension or dismissal of any two or more sharers in an advance, the monthly advance would be recoverable from the remainders, unless, with the Collector's assent another clerk or kárkún be admitted to the vacant share.

These orders are extended to the establishment of the Political Agent, Kolhápur and Southern Marátha Country. It should, however, be understood that the advance should be made only for *boná-fide* tour purposes and not for the purchase of a carriage for exclusive use at head-quarters.

(G. Rs. Nos. 370, dated 27th January 1883, and 3099, dated 5th September 1891.)

18. Advances not exceeding Rs. 100 may be granted for the purchase of carts, &c., to clerks and kárkúns travelling with the Collector, in all districts throughout the Presidency except Thána, Kolába, Ratnágiri and Kánara. The advances are in all cases to be recovered by monthly instalments of Rs. 10; and where Rs. 50 are advanced, one cart should be procured, where Rs. 100, two should be obtained.

This concession is extended also to the clerks and kárkúns serving under Assistant and Deputy Collectors, and to Circle Inspectors. On an advance being made to a Circle Inspector, the Mámlatdár can be directed to ascertain and report that the amount has been properly utilized and the property purchased is worth the money.

(G. Rs. Nos. 153, dated 15th January 1875; 3327, dated 10th August 1876; 2706, dated 1st July 1892, and 817, dated 2nd March 1894.)

19. Commissioners are authorized to sanction advances to District Inspectors of Land Records and Agriculture, up to the limit of Rs. 150, to be repaid in one year in equal monthly instalments, for the purchase of carts, &c. (G. R. No. 1214, dated 25th March 1893.)

20. The following rules prescribe the procedure to be observed in the payment and adjustment of advances for travelling expenses to subordinate Police officers :—

These rules apply to all non-gazetted Police officers deputed on duty, when required to travel on journeys for which under the Civil Service Regulations travelling allowance is admissible.

NOTE.—Permanent transfer is not a deputation on duty.

(2) Advances may be made by the District Superintendent of Police out of his permanent advance to a subordinate Police officer for payment of his railway fare, passage money, or actual expenses by road, not exceeding in the last case the amounts stated in Article 1127 of the Civil Service Regulations.

(3) The expenditure will be recouped from the Treasury on abstract bills drawn by the Superintendent of Police, on abstract contingent bill forms, and will be accounted for by submission to the Commissioners of detailed bills on the ordinary travelling allowance bill forms. After examination these detailed bills will be countersigned by the Commissioner, who will retain them on his records and merely send to the Accountant General the notice prescribed in Chapter 4,* Rule 19 (1) of the Civil Account Code, upon receipt of which the audit office will clear the amount of abstract bills. No officer to whom an advance is made under this rule will be entitled to any travelling allowance under Article 1107 or 1127 of the Civil Service Regulations, but an officer who does not draw an advance under this rule may draw the travelling allowance ordinarily admissible.

*Compare Chap. 5, Art. 69, note 1, of the C. A. Code Vol. I, Sixth Edition.

(4) Subordinate Police officers drawing Rs. 10 a month, and under, to whom advances are made under these rules, when proceeding on duty beyond the circle of their ordinary jurisdiction may, for a journey by railway, receive daily allowance at the rates admissible to them under the Civil Service Regulations in addition to railway fare.

(G. I., F. & C., Nos. 1529, dated 31st March 1890, and P-4869, dated 5th December 1892; *vide* G. Rs. Nos. 1326, dated 17th April 1890, and 5001, dated 17th December 1892.)

21. The Constables who have to accompany A'bkári Inspectors on duty should obtain advances under the above rules to pay their expenses. The advances can be arranged for by the District Superintendents of Police of the districts concerned, and if any increase is necessary to any of the permanent advances of the latter officers to enable them to supply the necessary funds, these can be separately applied for. (G. R. No. 1253, dated 17th April 1895.)

22. There is no objection to granting money from the Commissioner's permanent advance to

meet the way charges of Police escorts, provided that the amounts advanced are recouped by bills drawn by the District Superintendent of Police and debited as Police expenditure. (G. R. No. 3905, dated 27th November 1894.)

23. The Commissioner of Customs, Salt, Opium and A'bkári is authorized to allow Inspectors on the Northern and Daman Frontier Preventive Lines in receipt of pay not exceeding Rs. 150 a month to draw an advance of two months' pay for the purchase of ponies or horses, the advances being recoverable by twelve monthly instalments from the horse allowance admissible to them under rule. (G. I., F. & C., No. 3541, dated 2nd July 1888; *vide* G. R. No. 2292, dated 23rd idem, and G. R. No. 1518, dated 28th April 1894.)

24. The Commissioner of Customs, Salt, Opium and A'bkári is authorized to grant advances for the purchase of ponies or horses to such Inspectors of the A'bkári Department as are in receipt of a permanent horse allowance on the condition that the advances should not exceed the total of such allowances for one year, namely Rs. 180, and that the permanent allowance should be stopped till the debt is paid off. (G. I., F. & C., No. 5138, dated 26th December 1891; *vide* G. R. No. 692, dated 15th February 1892.)

25. The authority granted to the Commissioner of Customs, Salt, Opium and A'bkári by the last two foregoing orders is extended so as to admit of the grant of advances to the same officer more than once, subject to the condition that the officer receiving a fresh advance should have repaid all previous advances. (G. I., F. & C., No. 1851-A., dated 23rd April 1895; *vide* G. R. No. 1530, dated 11th May 1895.)

PART V.—MISCELLANEOUS.

1. The Government of India do not approve of the grant of loans to Native States, except under very exceptional circumstances, and even in such cases the rate of interest should be fixed at 5 per cent. (G. I., For. Dept., No. 291-I., dated 26th January 1885; *vide* G. R. No. 1197, dated 9th February 1885.)

2. In the rules prescribed by the Government of India for accounts of revenue advances (*vide* Article 133, Chapter 8, Civil Account Code, 6th Edition) laying down that the Accountant General should submit to the Chief Revenue Controlling Authority a half-yearly return showing the figures that pass upon his books in respect of revenue advances, the 'Chief Revenue Controlling Authority' is in Sind the Commissioner in Sind, and in the Northern, Central and Southern Divisions, the Commissioner, except so far as survey and settlements are concerned, when it is the Survey Commissioner. (G. R., R. D. No. 5490, dated 9th July 1884.)

3. Collectors when applying for sanction to write off irrecoverable balances of "Revenue Advances" should furnish the following information in the application :—

(1) Date of original advance.

(2) Amount of original advance.

(3) Rate of interest.

(4) Amount of principal repaid and balance of principal it is now proposed to write off.

(5) Amount of interest due on date of application to write off, which it is proposed to remit.

A copy of such application will be sent to the Accountant General with the orders sanctioning it.

(G. R., R. D., No. 3500, dated 30th May 1888.)

4. In the district estimates of agricultural and other advances the following information for receipts and charges should be furnished in columns :—

1. Actuals of previous year.
2. Estimate of current year.
3. Revised estimate of current year.
4. Estimate of ensuing year.

(G. R. No. 1682, dated 1st June 1888.)

5. The Accountant General should, when submitting his annual report on which the cash requirement estimate for loans and advances sent to the Government of India is based, deal with *actual* figures for the previous year besides *revised* for the current and *original* estimates for the ensuing year, and should explain at the same time any material differences between actuals and estimates, obtaining his information from the District officers concerned. (G. R., R. D., No. 6845, dated 27th September 1890.)

6. From a purely financial point of view, it is extremely important both that revenue advances

should be carefully regulated according to budget principles and that the recoveries should be carefully watched. An advance, which becomes irrecoverable, has necessarily to be charged off as final expenditure at the cost of the Provincial Government, and it is incumbent on it, therefore, both to see that recovery is duly secured and to take measures to ascertain and from time to time to write off those advances of which the recovery has become hopeless.

The advances which are under the management of the Executive authorities are mainly of the following classes:—

I. Advances to cultivators. These are made under various Acts, such as the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884; or on occasions of calamity for purchase of seed, cattle, &c., or for famine relief; or to tenants on Government estates, or for the promotion of colonization.

II. Advances for survey operations; such as for the erection of boundary marks or for other expenditure on survey, which is recoverable from landholders or rayats.

III. Advances under special laws, not coming within Class I, such as the Jhánsi Incumbered Estates Act, or the Bengal Drainage and Embankment Act.

IV. Advances of special Revenue Departments, such as salt and excise.

It appears necessary to make better provision than at present exists for the proper entry in the Budget Estimates of each year of the anticipated transactions in respect of these advances and to place this duty in the hands of the Revenue authorities, in the same way as the control of the transactions themselves already is.

Each Local Government and Administration shall make a timely estimate, both of the advance and of the recoveries, of the coming year and shall communicate it to the Accountant General for entry in his estimates. The transactions of the year should be, as far as possible, regulated according to this estimate. Demands are, no doubt, apt to arise in a sudden and unforeseen way, and the Local Government should therefore take care, in allotting the sums provided in the provincial Budget Estimates, to reserve under their general control such an amount as experience may show to be necessary for these unforeseen demands.

In most provinces the working of advances under the Land Improvement and Agriculturists' Loans Acts is reviewed in the Land Revenue Administration Report, and the submission of separate reviews is not necessary. In cases where it has not been the custom to insert a notice of this subject in the Land Revenue Administration Reports, this should now be done.

(G. I., F. & C., Nos. 6233, dated 24th November

1887, 2818, dated 3rd July 1891, and 4968, dated 16th December 1891, and G. I., R. & A., Nos. 2393, dated 24th October 1892 and 7-167, dated 5th May 1893; *vide* G. Rs. Nos. 103, dated 14th January 1888, 252, dated 18th January 1892, and 3116, dated 8th September 1893, and G. Rs., R. D., Nos. 6008, dated 2nd September 1891, and 961, dated 3rd February 1893.)

7. The estimates of advances and their recoveries, prescribed in the Resolution of the Government of India No. 6233, dated 24th November 1887, are required in the office of the Accountant General for incorporation in the Cash Requirement Estimate of the Presidency which is due to the Comptroller General on 15th February. With a view to their being received in time for this purpose the estimates of advances under the Land Improvement Loans Act should reach the Accountant General in time to enable him to forward a consolidated estimate to Government for submission* to the Government of India in November. Any alteration which may be made when forwarding the estimate to the Supreme Government will be communicated to the Accountant General, who will be able to include it with or without the orders of the Government of India thereon in his cash requirement estimates. The estimates of other advances prepared by the District Officers should be consolidated in the Commissioner's offices and forwarded by the 1st of December each year to the Accountant General, who should compile and submit to Government a general estimate for the entire Presidency for the orders of Government being passed thereon in time for its inclusion in his cash requirement estimates. (G. R. No. 103, dated 14th January 1888, and G. R. No. 2306, dated 14th June 1889.)

8. In the Resolutions of the Finance and Commerce Department Nos. 2818, dated 3rd July 1891, and 4968, dated 16th December 1891, Local Governments and Administrations were directed to discontinue the submission to the Government of India of their annual reviews of the transactions in connection with Agricultural and other Revenue advances, except the reviews which relate to advances under the Land Improvement and Agriculturists' Loans Acts, which were to be forwarded as before to the Revenue and Agricultural Department.

In view of the fact that in most provinces the working of such advances is reviewed in the Land Revenue Administration Report, the submission of the separate reviews, above mentioned, is now considered unnecessary and may be discontinued.

In cases where it has not hitherto been the custom to insert a notice of this subject in the Land Revenue Administration Reports, this should now be done.

(G. I., R. & A., No. 777, dated 13th April 1893; *vide* G. R. No. 3116, dated 8th September 1893.)

* *Vide* preamble of G. R. No. 390, dated 28th January 1889.